

Deficiency Progress Report

CUPA: Livermore – Pleasanton Fire Department
Evaluation Date: November 7 and 8, 2007
Evaluators: JoAnn Jaschke, CalEPA
Asha Arora, DTSC

Date update 1 was submitted: March 7, 2008
Deficiency corrected with this update: Deficiency 3.

Date update 2 was submitted: July 22, 2008
Deficiency corrected with this update: Deficiency 7

Status of Remaining Deficiencies

- 1. Deficiency:** The FY 04/05, 05/06, and 06/07 Annual Single Fee Summary Report (Report 2) submitted to Cal/EPA by the CUPA did not include all the required information. The report was missing: the amount of the single fee and state surcharge billed, waived, and collected as well as the business counts.

Preliminary Corrective Action: By September 30, 2008, the CUPA shall submit the FY 07/08 Report 2 that includes all the required information of Title 27, section 15290(a)(1)(A-E).

CUPA Corrective Action, (Update 1): The Finance Department demonstrated November 2007 that they can provide the fiscal information we need to complete Report 2. The FY 07/08 Report 2 will be submitted by September 30, 2008.

Cal/EPA Response: Cal/EPA appreciates the progress being made to correct this deficiency and feel the CUPA is on track for meeting the September 30, 2008 deadline. Cal/EPA will continue to monitor the progress via deficiency progress reports.

CUPA Corrective Action, (Update 2): No change. Reports to be submitted by September 30, 2008.

Cal/EPA Response: Cal/EPA looks forward to receiving the reports.

- 2. Deficiency:** The CUPA is not annually reviewing and updating their fee accountability program.

Preliminary Corrective Action: By September 30, 2008, the CUPA shall submit the FY 07/08 required fee accountability information to Cal/EPA.

CUPA Corrective Action, (Update 1): The Finance Department demonstrated November 2007 that they can provide the fiscal information we need to complete fee accountability review. The FY 07/08 fee accountability information will be submitted by September 30, 2008

Cal/EPA Response: Cal/EPA appreciates the progress being made to correct this deficiency and feel the CUPA is on track for meeting the September 30, 2008 deadline. Cal/EPA will continue to monitor the progress via deficiency progress reports.

CUPA Corrective Action, (Update 2): No change. Reports to be submitted by September 30, 2008.

Cal/EPA Response: Cal/EPA looks forward to receiving the reports.

- 5. Deficiency:** The CUPA is not conducting LQG inspections in a manner consistent with state statute or regulation for businesses subject to hazardous waste generator program.

Preliminary Corrective Action: By March 1, 2008, the CUPA shall provide LQG training to their inspectors.

CUPA Corrective Action, (Update 1): We had planned to obtain this training at the CUPA Conference, but no relevant classes were offered. We have been unable to locate an appropriate class and are working through Joann Jaschke to a class taught by DTSC staff. We hope to host a class through the County Hazardous Material group that would be open to other regulators in the area.

Cal/EPA and DTSC Response: DTSC is looking into identify training resources and creating a LQG training curriculum. Therefore, we are extending the deadline for correcting this deficiency until after the LQG training is available. As an alternative, the CUPA staff may observe LQG inspections conducted by DTSC or U.S. EPA staff.

CUPA Corrective Action, (Update 2): Still awaiting training availability.

DTSC Response: Please contact Asha Arora at (510) 540-3874 or e-mail at aaarora@dtsc.ca.gov to schedule a LQG training class. This class is anticipated to be a 2 hour training.

- 6. Deficiency:** The CUPA is not ensuring that businesses submit their annual CA/PBR update or their CA/PBR authorization treatment notifications.

Preliminary Corrective Action: By February 1, 2008, the CUPA will start the AEO process to obtain the required information from Livermore Anodize.

CUPA Corrective Action, (Update 1): As was discussed with Joann Jaschke, Danielle Stefani was ill for an extended period of time in January and February and as a result this corrective action was delayed. Livermore Anodize was inspected February 29, 2008. We reviewed the facilities documents in our office and will be returning by March 28, 2008 to close the inspection. Due to changes going on at the facility, we will be referring this case to the District Attorneys office immediately after our visit. We believe the DA will take the case given the situation at the site, but should they refuse the case, we will immediately proceed with an AEO.

Cal/EPA and DTSC Response: Cal/EPA and DTSC will continue to monitor the progress being made to correct this deficiency via deficiency progress reports. Additionally, Cal/EPA and DTSC approve the revised timeframe to address this deficiency.

CUPA Corrective Action, (Update 2): It was ultimately decided not to refer the case to the D.A. An AEO will be the enforcement tool used. The inspection is complete and a show cause appointment is scheduled for 7/24/2008 with the facility owner.

DTSC Response: DTSC will continue to monitor the progress being made to correct this deficiency via deficiency progress reports. Please update DTSC on the progress of the show cause appointment of July 24, 2008 with the facility owner and the progress of the AEO in the case.

- 7. Deficiency:** The CUPA is not always citing violations consistent with definitions of minor, Class II or Class I as provided in state statute law and regulation and their Inspection and Enforcement Plan.

Preliminary Corrective Action: The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA “**Violation Classification Guidance Document for Unified Program Agencies**” which can be found on the Cal/EPA website under Unified Programs-Technical Assistance.

CUPA Corrective Action, (Update 1): In-house refresher training has been scheduled for March 31, 2008, which will include a review of the “Violation Classification Guidance Document.

Cal/EPA and DTSC Response: Cal/EPA and DTSC accept the progress being made to correct this deficiency. In the next deficiency progress report, please let us know how many staff attend the in-house training currently scheduled for March 31, 2008.

CUPA Corrective Action, (Update 2): This training has been accomplished.

DTSC Response: The corrective actions taken by the CUPA sufficiently correct this deficiency. No further updates are needed.

- 8. Deficiency:** The CUPA is not taking enforcement in manner consistent with state statute in all cases.

Preliminary Corrective Action: By February 1, 2008, the CUPA will begin taking formal enforcement against Ken Tires.

CUPA Corrective Action, (Update 1): This action was also delayed due to Danielle's illness. The consent order was mailed to Ken's Tires today. If they fail to respond by March 24, 2008, we will issue a Unilateral Order by April 4, 2008.

Cal/EPA and DTSC Response: Cal/EPA and DTSC appreciate the progress being made to correct this deficiency and approve the revised timeframe. Cal/EPA and DTSC will continue to monitor the progress via deficiency progress reports.

CUPA Corrective Action, (Update 2): We decided not to issue a Unilateral Order. A show cause meeting was held with the facility, and an agreement was reached on the Consent Order language and penalty. They stated they will sign and return the Order by 7/25/2008.

DTSC Response: DTSC appreciates the progress being made to correct this deficiency. In addition, please update DTSC on the progress of the Order in the next deficiency progress reports.